

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
CALIFORNIA-AMERICAN WATER COMPANY
(U 210 W) for a Certificate that the Present and
Future Public Convenience and Necessity
Requires Applicant to Construct and Operate the
24,000 acre foot Carmel River Dam and Reservoir
in its Monterey Division and to Recover All
Present and Future Costs in Connection
Therewith in Rates.

Application 97-03-052
(Filed March 28, 1997)

**ADMINISTRATIVE LAW JUDGE'S RULING DIRECTING
CALIFORNIA-AMERICAN WATER COMPANY TO FILE
ADDITIONAL INFORMATION REGARDING
PERMITTING AND RATEMAKING ISSUES**

1. Summary

California-American Water Company (Cal-Am) is directed to file additional information regarding permitting and ratemaking issues to allow us to evaluate its recent motions. Until the motions are ruled upon, Cal-Am is excused from filing a Proponent's Environmental Assessment (PEA) for its amended project.

2. Background

On February 11, 2003, Cal-Am filed two motions and an amendment to its application. The amendment modifies Cal-Am's application in this proceeding to request a certificate of public convenience and necessity to construct a Coastal Water Project, consisting of a desalination facility and aquifer storage and

recovery component instead of the previously proposed Carmel River Dam. The Coastal Water Project is commonly referred to as Plan B.

3. Relief Sought

Cal-Am's motions make several requests. First, Cal-Am requests that this Commission be designated as Lead Agency for purposes of compliance with the California Environmental Quality Act (CEQA). Second, Cal-Am requests that it be granted temporary relief from the requirement that it file a PEA concurrent with its amended application. Third, Cal-Am requests that the Commission direct it to prepare its PEA and file said PEA upon completion. Finally, Cal-Am seeks authorization to establish appropriate ratemaking accounts to book costs and expenses for future recovery incurred for environmental review of the Carmel River Dam and that will be incurred in connection with the review of the Coastal Water Plan.

4. Additional Information Required to Rule on Lead Agency Designation

In order for this Commission to reach a conclusion about whether it is properly designated as the Lead Agency for CEQA purposes, we need additional information. Normally, when a PEA is submitted concurrent with an application, the PEA identifies all of the affected jurisdictions and permits required, and provides notice to those entities. This assists our staff in determining whether this Commission is properly the Lead Agency or a Responsible Agency under CEQA. Because Cal-Am has not submitted its PEA at this time, we are concerned that other agencies with authority over the proposed project may not have been notified of the amended application.

For this reason, Cal-Am is directed to make a good faith effort to identify all permits and authorizations that may be required by the proposed project set

forth in the amendment, file a document describing said permits and authorizations and listing the relevant permitting agencies and jurisdictions, and serve its amended application and motion for designation of lead agency on said permitting agencies and jurisdictions. The filing should also describe the status of the Cal-Am's environmental compliance/CEQA related to the Carmel River Dam underway at the Monterey Peninsula Water Management District (MPWMD), the process that would be used to wind down those activities while preserving the work developed by MPWMD, and other issues that would be impacted by the designation of the Commission as Lead Agency.

5. Deferral of Ruling Directing Cal-Am to Prepare PEA

Until the Lead Agency designation is determined, it is logical to defer issuing a ruling directing Cal-Am to begin preparation of its PEA.

6. Ruling on Request to Delay Filing of PEA

While the remainder of Cal-Am's motions are pending, it is logical to grant the request that filing of the PEA be delayed. Because the issues of jurisdiction and funding are integrally linked to the development of the PEA, I grant this aspect of the motion.

7. Additional Information Required to Rule on Ratemaking Issues

Cal-Am's request for ratemaking accounts associated with the past and future costs of environmental review, development, permitting and other required approvals is vague. For example, in the motion, the ratemaking account is referred to as a "deferred credit account" whereas in the Amendment it is referred to as a "deferred debit account." In addition, it is unclear how the ratemaking treatment of certain related costs recently approved in Decision

(D.) 03-02-030 interacts or supercedes the requested ratemaking treatment in the motion and Amendment.

As such, Cal-Am is directed to prepare written testimony that sets forth the current ratemaking treatment of any past costs related to the Carmel River Dam Project or Plan B. Cal-Am should identify the past costs for which it seeks to modify the ratemaking treatment under its motion and Amendment and how those changes would interact with the ratemaking treatment adopted in D.03-02-030. Cal-Am should identify if or how the ratemaking treatment for future costs of the Carmel River Dam adopted in D.03-02-030 at pp. 39-43 should be revised in light of its Amendment and the proposed change in project. Cal-Am should identify what costs that fall into the definition of “environmental review, development, permitting and other required approvals” have already been recovered and the ratemaking approach used to recover those costs. Cal-Am should specify the exact ratemaking treatment (type of account, interest rate, etc.) sought for past and future costs.

Upon receipt of the testimony, I intend to hold an evidentiary hearing. Parties may conduct cross-examination of the witness (or witnesses) if they so desire. At a minimum, I will question the witness (or witnesses) to ensure that I understand the proposed ratemaking treatment and to ensure that the Commission has sufficient information to evaluate this request.

8. Filing and Service Dates

Cal-Am should file the additional information required related to permitting issues no later than April 1, 2003. Cal-Am should also serve the testimony on ratemaking issues on the same date. In light of the additional information that will be submitted to allow us to evaluate the issue of the CEQA

Lead Agency designation, parties may comment on that question and issues raised by that motion by April 11, 2003.

IT IS RULED that:

1. After making a good faith effort to identify all permits and authorizations that may be required by the proposed project set forth in the amendment, California-American Water Company (Cal-Am) shall file, on April 1, 2003, a document describing the necessary permits and authorizations and the status of the Cal-Am's environmental compliance/California Environmental Quality Act related to the Carmel River Dam underway at the Monterey Peninsula Water Management District (MPWMD), the process that would be used to wind down those activities while preserving the work developed by MPWMD, and other issues that would be impacted by the designation of the Commission as Lead Agency.

2. Within five days of the date of this ruling, Cal-Am shall serve its amended application and motion for designation of lead agency on the permitting agencies and jurisdictions identified in the above filing.

3. By April 1, 2003, Cal-Am shall serve written testimony that sets forth the current ratemaking treatment of any past costs related to the Carmel River Dam Project or Plan B, identifies the past costs for which it seeks to modify the ratemaking treatment under its motion and Amendment and how those changes would interact with the ratemaking treatment adopted in Decision (D.) 03-02-030, identifies if or how the ratemaking treatment for future costs of the Carmel River Dam adopted in D.03-02-030 should be revised in light of its Amendment and the proposed change in project, identifies the costs of "environmental review, development, permitting and other required approvals" that have already been recovered and the ratemaking approach used to recover those costs, and specifies

the exact ratemaking treatment (type of account, interest rate, etc.) sought for past and future costs.

4. Until the motions are ruled upon, Cal-Am is excused from filing a PEA for its amended project.

Dated March 12, 2003, at San Francisco, California.

/s/ MICHELLE COOKE

Michelle Cooke
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling on all parties of record in this proceeding or their attorneys of record. In addition, service was also performed by electronic mail.

Dated March 12, 2003, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.